

Why Are Fish Afraid of the Computer?

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Answer: The fish are afraid they will be caught up in the Inter"net." With the widespread availability of the Internet, the acupuncturist is just a mouse click away from obtaining many excellent sources of information about worker's compensation laws applicable to his or her practice.

For example, if the acupuncturist desires to obtain a lien form to file a lien in a particular worker's compensation case, a copy of the lien form can be obtained from the World Wide Web at <http://www.lra4law.com/wcinfo.htm>. The name of the form is "Notice and Request for Allowance of Lien, or DWC form #6. This is a green form. If you obtain it directly from the Worker's Compensation Appeals Board (WCAB) in your area, you will note the light green color.

Dr. Garrett Casey, DC, in a December, 2000 article in *Acupuncture Today*, warned of the dangers of this "green lien" form for worker's compensation cases concerning treatment by an acupuncturist. Dr. Casey stated, "Remember that as a lien physician in worker's compensation, you still need to follow the rules stated at 8 Cal Code of Regulations 9785 ("Duties of the Employee Selected Physician"). Dr. Casey clarified, "You must continue to send in your progress reports every 45 days if the injured is continuing to be treated. Bill according to the official medical fee schedule." Dr. Casey then stated, "Most important, file the lien with the WCAB. The applicant attorney will provide you with the WCAB case number so that all of your documents can get into the file before hearing." (Casey, 2000) [Note: It is important that a copy of the lien with your itemized bills not only be filed at the WCAB, but it must be served on all attorneys in the case prior to filing the lien at the Appeals Board, and a "Proof of Service" must be completed to show that all parties were served.]

Dr. Casey then stated that these liens filed at the Worker's Compensation Appeals Board are under the WCAB's authority to hear the case. Dr. Casey clarifies: "Date-stamp everything and hand place your records in the file · You will then be notified of the MSC/trial date that you can attend." (Ibid.)

Suppose that for some reason the MSC and trial date are continued, and you experience multiple delays. One remedy you might want to consider is to file a DWC form #9, a "Declaration of Readiness to Proceed" concerning the issue of your lien. This form is also available at www.lra4law.com/wcinfo.htm, or it can be obtained from your local WCAB.

After the "Declaration of Readiness to Proceed" is completed, copies must be served on the attorneys and representatives in the case, and the original form filed with the WCAB. The court will then assign a trial date to the lien issue. You may also want to indicate on your Declaration of Readiness form that you are seeking penalties under Labor Codes 4603.2 and 5814 if the payment has been delayed. For example, California worker's compensation law provides for two types of penalties for delayed benefits. They are commonly known as Labor Code Section 4650 penalties (often called "automatic penalties") and Labor Code 5814 penalties. Payment procedures and time limitations for medical treatment provided or authorized by the treating physician are set forth in Labor Code 4603.2.

Essentially, the employer must pay a medical bill within 60 days of its receipt or contest it in writing within 30 days after receiving it. Failure to promptly pay the reasonable medical fees may result in a Labor Code 5814 penalty in addition to the automatic 10% penalty, together with interest imposed under Labor Code 4603.2. If a Labor Code 5814 penalty is found warranted, it applies to all benefits paid in the class of benefits unreasonably delayed that have been paid, even if the other payments were timely made. A delay of one or two days may not be found by the judge to be an unreasonable delay. Specifically, in *Gallamore v. WCAB* (1978) 44 CCC 321, the California Supreme Court noted that:

"In penalty cases, the Board should proceed with the view toward achieving a fair balance between the right of the employee to prompt payment of compensation benefits, and the avoidance of imposition upon the employer or carrier of harsh and unreasonable penalties."

If one should desire more information about filing worker's compensation liens, each worker's compensation board has an information and assistance officer that may be available to members of the public to provide assistance. The phone numbers are available at www.lra4law.com/wcinfo.htm.

Other websites with information about California worker's compensation which were discovered upon a quick review using Yahoo (stated in no particular order) are:

www.dir.ca.gov
www.boxerlaw.com
www.acupuncture-no1.com
www.workinjury.com
www.findlaw.com
<http://home.earthlink.net/%7Essblaw/wcinfo.htm>
www.abraxis.com/popco/wrkcomp.htm
www.uvm.edu/%7Euvmppg/ppg/riskmgm/workcomp.htm
http://mulfil.com/quick_law.html
www.calbar.org/2cbj/97jan/art17a.htm
www.calbar.org/workerscomp/spring/index.htm
www.riskmail.org/archive/feb00/00000178.htm
www.aspenpublishers.com (Note: see *Journal of Controversial Medical Claims*)

Have fun fishing on the Internet and trying some of the above-named websites. You will probably discover links at these sites that will lead to other links, and will soon be "caught up" in the web of the Internet! (*Disclaimer:* This author does not endorse any of the above-named sites.)

Some final words of caution: It is important to remember that employers are not required to pay for nonindustrial medical treatment, even if they failed to object to the treating doctor's billing within the prescribed time pursuant to Labor Code 4603.2 and *Sharma v. CAN Casualty*, 22 CWR 18. The rules on payment for medical treatment are further described in 8 Cal Code of Regulations 9792.5.

A recent case concerning delay of payment for acupuncture treatment is the case of *Capital Hardware, et al. v. WCAB* (1999) 64 CCC 1263. In this case, the applicant suffered from multiple chemical sensitivity syndrome. The WCAB imposed Labor Code 5814 penalties for the defendant's failure to pay temporary disability benefits within 14 days of obtaining knowledge of the applicant's injury pursuant to LC 4650 and the defendant's failure to authorize acupuncture treatment

recommended by the applicant's treating physician, when the defendant was unable to establish that it had reasonable doubt as to its liability for these benefits. If the carrier is not paying your bill, you might want to remind him or her of this recent case showing the significance of the delay and the need for penalties.

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